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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/158744

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 02, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on July 23, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's request to increase her FoodShare benefits effective July 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Simone Johnson, Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W. Vliet St., Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 13, 2014, the Petitioner's employment ended. (Exhibit 2, pg. 16)
3. On June 13, 2014, the Petitioner called the agency to ask what she needed to do, now that she was unemployed. The agency worker informed the Petitioner that her benefits would not change until

she produced verification of her unemployment. The agency worker also told the Petitioner that she would have ten days to provide the verification. (Testimony of the Petitioner)

4. The Petitioner went to the agency on July 2, 2014 to provide verification of her unemployment. The Petitioner advised the agency that she had reported the change in June 2014. The agency informed the Petitioner that they did not have a record of her contacting the agency to report her unemployment; as such, her FoodShare benefits would increase for August 2014, but not July 2014. (Exhibit 2, pg. 9)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 2, 2014. (Exhibit 1)
6. On July 3, 2014, the agency sent the Petitioner a notice that erroneously informed her that her FoodShare benefits would increase to \$611 for July 1, 2014 and to \$632 effective August 1, 2014. (Exhibit 2, pgs. 19-24)
7. The agency did not issue any subsequent notices, correcting this misinformation. However, the agency did cancel the \$611 payment for July 2014. (Testimony of Ms. Johnson)

### **DISCUSSION**

The Petitioner filed an appeal, because she believes the increase to her FoodShare benefits should have taken place in July 2014, since she reported the change in June 2014.

Petitioner testified credibly that she called the agency on June 13, 2014, the day she lost her job, to report her unemployment.

Changes that cause an increase in FoodShare benefits will be effective the first of the month, following the reported change. *FoodShare Wisconsin Handbook (FSH)* §6.1.3.3 Because the Petitioner reported her unemployment to the agency in June 2014, her benefits should have been increased for July 2014. This should also be the case, because the agency did not timely act upon Petitioner's reported change in employment.

The agency had 10 days from June 13, 2014, to act on the reported change. *FSH* §6.1.3.1 At that time, the agency should have requested verification, in writing, of Petitioner's unemployment. *FSH* §§ 1.2.1.2 and 6.1.3.1 It did not do so, and as such, failed to act timely upon the reported change.

### **CONCLUSIONS OF LAW**

The agency did not correctly deny the Petitioner FoodShare benefits for July 2014.

**THEREFORE, it is**

**ORDERED**

That the agency issue to the Petitioner FoodShare benefits totaling \$632 for July 2014. The agency shall take all administrative steps to complete this task within ten days of this decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 18th day of August, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 18, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability